

1.06

Participant Sanctions

POLICY:

The State Agency (SA) determines uniform procedures and sanctions to be applied to cases of program abuse by participants or applicants. A sanction, which is based on the severity of the abuse may range from education and warning letters to disqualifications from the program for a maximum of twelve months. If the SA determines that program benefits have been obtained or disposed of improperly as a result of a participant violation, the SA will establish a claim against the participant for the full value of such benefits.

PROCEDURE:

A. Abuses and Assigned Sanctions

The State Agency will assign appropriate sanctions for the following parent/guardian/caretaker abuses upon completion of an investigation. Abuses 1-6 may also result in the repayment to the State WIC Agency for the value of food benefits improperly received/disposed of. The disqualification period for these abuses may also result in disqualification of up to one year, for a monetary claim of \$100.00 or more. (see Section M).

Abuse		Sanction
1. Intentionally making a false or misleading statement, or intentionally misrepresenting, concealing or withholding facts to obtain benefits: to include the misrepresentation of income, residency, family size, health status falsification of medical data or health, misrepresentation of date of birth so as to (a) to appear categorically eligible, or (b) to go undetected as a dual participant.	First Offense:	Three-month disqualification
2. Attempting to sell or actually selling or attempting to exchange or actually exchanging	First Offense:	Three to twelve-month disqualification.

1.06

Participant Sanctions

<p>the eWIC benefit card, food, formula, or loaned breast pumps for cash or other items of value, to other persons or entities.</p>		<p>(Also, a misdemeanor crime under State law if WIC formula/baby food is sold at flea market or swap meet.)</p>
<p>3. Redeeming, or attempting to redeem WIC benefits for a participant no longer in the custody of parent/guardian; i.e. a child being removed from the home.</p>	<p>First Offense:</p>	<p>Three to twelve-month disqualification.</p>
<p>4. Attempting to receive or actually receiving cash or credit from vendors toward purchase of unauthorized food or other items of value in lieu of authorized supplemental foods (does not include rain checks).</p>	<p>First Offense:</p>	<p>Three-month disqualification</p>
<p>5. Attempting to steal or stealing WIC benefits from a LA or another participant (report theft to the police).</p>	<p>First Offense:</p>	<p>Three-month disqualification</p>
<p>6. Dual participation (number of months disqualified from the Program depends on number of months dual benefits received).</p>	<p>First Offense: Second Offense:</p>	<p>Immediate removal from one clinic and one to three-month disqualification Immediate removal from one clinic and one to three-month disqualification</p>
<p>7. Altering WIC benefits (date, quantity, type of food, participant name, etc.) for the purpose of</p>	<p>First Offense: Second Offense:</p>	<p>One-month disqualification Three-month disqualification</p>

1.06

Participant Sanctions

showing false or misleading information.		
8. Physical abuse of WIC or vendor staff. Physical abuse of WIC clinic or vendor property. Theft of WIC clinic or WIC staff property. (Report physical abuse of staff or property or theft of property to the police).	First Offense:	Three-month disqualification (with re-application participant must change WIC clinic or vendor.)
9. Altering Prescription Formula Documentation Form (WIC-53) for the purpose of showing false or misleading information.	First Offense: Second Offense:	One-month disqualification Three-month disqualification
10. Purchasing or attempting to purchase unauthorized foods with the eWIC benefit card (substituting an unauthorized brand of same type of food, such as cheese food for an allowable cheese). Exchanging or attempting to exchange food or formula purchased with the eWIC benefit card for unauthorized food or formula.	First Offense: Second Offense: Third Offense:	Education and a warning letter Education and a warning letter One-month disqualification
11. Purchasing or attempting to purchase unauthorized foods with the eWIC benefit card (food items not in categories on food list, such as soda and chips).	First Offense: Second Offense: Third Offense:	One-month disqualification Two-month disqualification Three-month disqualification

1.06

Participant Sanctions

12. Purchasing or attempting to purchase non-food items with the eWIC benefit card (diapers, cigarettes).	First Offense: Second Offense: Third Offense:	One-month disqualification Two-month disqualification Three-month disqualification
13. Threatening physical abuse of WIC or vendor staff (includes throwing something in the direction of WIC or vendor staff).	First Offense: Second Offense:	Education and a warning letter and participant must change WIC clinic or vendor Three-month disqualification (with re-application participant must change WIC clinic or vendor.)
14. Giving away foods/formula purchased with the eWIC benefit card, to other persons/entities.	First Offense: Second Offense:	Education and a warning letter Three-month disqualification
15. Verbally abusing or harassing WIC staff or vendor staff (includes throwing something though it is not directed toward WIC or vendor staff).	First Offense: Second Offense: Third Offense:	Education and a warning letter One-month disqualification Three-month disqualification

B. Repeated Occurrence

1. A repeated (second or third) occurrence within one (1) year of a serious abuse (abuses 1 - 6) of the first offense warrants a second or third abuse sanction, whichever is appropriate, even if the latest abuse is unrelated to the previous abuse.
2. A repeated (second or third) occurrence within one (1) year that does not involve fraudulent behavior on the part of the parent/guardian/caretaker (abuses 7-14) requires that a sanction only be imposed for second or third occurrences of the same abuse.

C. Situations Not Addressed

1. Contact the State Agency for guidance when confronted with a situation not addressed.

1.06

Participant Sanctions

D. Parent/Guardian Two/Caretaker/Proxy Abuse

1. Inform the parent/guardian that any abuse committed by their parent/guardian two/caretaker/proxy(ies) may result in the termination of their benefits and/or civil criminal prosecution.

E. Anonymous Tips of Program Abuse

1. Anonymous tips of alleged abuse must be investigated, but if not verified a sanction may not be imposed. In such cases, counseling may be the only appropriate action taken.

F. Documentation of Program Abuse

1. Program abuse will be documented and maintained at the State Agency by the State Agency Program Integrity Coordinator and the Policy and Procedure Coordinator.
2. Documentation may include:
 - a. Parent/Guardian name and WIC identification number;
 - b. Type and date of abuse;
 - c. Witnesses;
 - d. Findings of the investigation; and
 - e. All verbal and written communications with the parent/guardian and/or caretaker.
3. If the Local Agency staff discover posts for formula and other WIC foods for sale in their local paper or on social media sites such as Facebook, Craig's List, E- Bay, etc., the Local Agency staff should check the Crossroads system to determine if the seller is a WIC participant in their area.
 - a. Verify if the seller is a WIC participant who was issued this type of food, formula, and/or loaned breast pump by reviewing the Food Benefit History or Electric Pump Loan Agreements.
 - b. Forward all information regarding this abuse to the State WIC Agency Program Integrity Coordinator. The State WIC Agency Program Integrity Coordinator will then follow-up on the information that has been provided, and then determine the appropriate sanction.
 - c. If the seller is a WIC participant who was issued and redeemed Food Benefits for food, and/or formula, or received a loaned breast pump, the State Agency (SA) will issue a Disqualification for Program Abuse letter to the participant.

1.06

Participant Sanctions

The “preponderance of evidence” suggests that this is WIC food, formula and/or loaned breast pump; therefore, it is the responsibility of the participant to prove it is not WIC food, formula and/or loaned breast pump.

- d. The SA will calculate the amount owed to the Program by obtaining the redemption price of the breast pump, formula or food at the time the Food Benefits were redeemed. A letter will be sent to the participant that will detail the amount that must be repaid to the West Virginia State WIC Program. If this amount exceeds \$100.00, the disqualification period will be a mandatory twelve (12) months.

Note: the SA may decide not to impose a mandatory disqualification if, within 30 days of receipt of letter demanding repayment, full restitution is made or a repayment schedule is agreed on. If a repayment schedule is agreed on, the participant will be advised that the original sanction will be imposed if a payment is missed (see **Attachment #1**).

- e. If the participant is an infant, child, or under age 18, upon approval from the State agency, a caretaker may be designated in place of the parent/guardian being disqualified for continued benefits.

G. Warning Letter for Program Abuse and Disqualification Letter for Program Abuse

- 1. A warning or disqualification letter, whichever is appropriate, will be issued to the parent/guardian by the State Agency or Local Agency Director. If the Local Agency Director is issuing a letter, a copy must be sent to the State Agency and a copy scanned into the participant file.
 - a. The warning letter will describe the abuse, the possibility of disqualification and prosecution if the abuse is repeated and the correct procedure to follow.
 - b. The warning letter must be issued within ten (10) days of the Local Agency or State Agency receipt of the documentation of abuse.
 - c. The disqualification letter will state the reasons for this action and the parent/guardian's right to request a fair hearing.
 - d. The parent/guardian must receive a written advance notice not less than fifteen (15) days prior to disqualification.
 - e. The letter must be signed by the Local Agency or State Agency Director.

H. Prior to Disqualification

1.06

Participant Sanctions

1. Prior to disqualification of a parent/guardian for Program abuse, the State and/or Local Agency must collect a written account of events, copies of the Participant Agreement (WIC-05), and signed eWIC Benefit Balance Receipts that pertain to the abuse.
2. The State Agency will then disqualify the parent/guardian.
3. The effective date of disqualification will be at least eighteen (18) days from the date of the disqualification letter to allow for the mailing period.

I. Fair Hearing

1. A disqualified payee will be given full opportunity to appeal a disqualification (see Policy 1.07, Fair Hearing Policy for Applicants and Participants).
2. A parent/guardian who appeals the disqualification within the fifteen (15) day advance adverse action notification period will continue to receive benefits until the Hearing Officer reaches a decision, or the certification period expires, whichever occurs first.
3. A parent/guardian must adhere to the Program rules while awaiting a hearing decision. Other sanctions that are applied when abuses are committed may be enforced while that person participates, pending a hearing decision.
4. A parent/guardian may not appeal sanctions that do not affect their Program eligibility.

J. Reinstatement

1. There is no automatic reinstatement to the Program for a disqualified parent/guardian when participation ends as a result of Program abuse.
2. Disqualified individuals may apply for benefits at the end of the disqualification period.
3. If waiting lists are in place, this applicant is placed at the end of the list.
4. The State agency may permit a participant to reapply for the Program before the end of a mandatory disqualification period if full restitution is made or a repayment schedule is agreed upon or, in the case of a participant who is an infant, child, or under age 18, the state agency approves the designation of a caretaker.

1.06 Participant Sanctions

5. A complete assessment must be performed to determine eligibility.

K. Disqualification in Error

1. When the Local Agency Director determines that a parent/guardian has been disqualified in error, the participant(s) will be reinstated immediately. Retroactive benefits may not be issued to a parent/guardian disqualified in error.

L. Monetary Claims

1. A parent/guardian who misrepresents their circumstances in order to receive food benefits may be required to pay the cash value of improperly received benefits to the State. Whenever the SA establishes a claim of \$100.00 or more, the SA will disqualify the participant for one year.

REFERENCES:

1. WIC Regulations 7 CFR 246.2, Definitions
2. WIC Regulations 7 CFR 246.7 (h), Participant Eligibility
3. FNS Instruction 803-9, Actions Which Affect Participation in Mid-Certification
4. Article 7, Chapter 16 of the code of West Virginia 1931, Section 8

ATTACHMENTS:

1. Repayment Agreement